

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(C) No. 5999 of 2019**

Adhunik Power and Natural Resources Limited, through its General Manager (Liaison), Shri Mani Shankar, having its registered office in Kolkata (West Bengal) and Branch Office in Ranchi (Jharkhand)

... .. Petitioner

Versus

1. The State of Jharkhand, through the Chief Secretary
2. The Secretary, Water Resources Department, Government of Jharkhand, Ranchi
3. The Chief Engineer, Planning and Monitoring, Water Resources Department, Government of Jharkhand, Ranchi
4. The Superintending Engineer, Planning and Monitoring Circle-II, Water Resources Department, Government of Jharkhand, Ranchi
5. The Executive Engineer, Subarnarekha Dam Division No. 2, Chandil, District- Seraikella-Kharsawan

... .. Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner :- Mr. Indrajit Sinha, Advocate

For the State :- Mr. Gaurav Abhishek, A.C. to A.G.

**Order No. 04**

**Dated: 07.07.2020**

The present case is taken up through video conferencing.

**2.** The present writ petition has been filed for issuance of direction upon the respondents to forthwith execute an agreement for water supply from Subarnrekha river in favour of the petitioner for 17.60 MCM with effect from 30.08.2013.

**3.** Learned counsel for the petitioner submits that the petitioner signed a Memorandum of Understanding (MoU) on 31.10.2005 with the Government of Jharkhand for setting up a Power Project in the State of Jharkhand having capacity of 1000 MW (04 units of 250 MW) in two phases which was valid for a period of 12 months. Thereafter, two subsequent MoUs were signed on 18.01.2007 and 01.02.2008 for first extension of 12 more months effective from 31.10.2006 and second extension of 36 months (three years) effective from 31.10.2007 respectively. Thus, the validity period of the MoU was effective up to 31.10.2010. The petitioner vide its letter dated 20.12.2005 requested the State Government for execution of agreement for drawl of water of 6000 m<sup>3</sup>/hr. for 1000 MW Power Plant in the district of Saraikella-Kharsawan from suitable location of Swarnrekha river in the phased manner. Thereafter, the respondent

no. 3 vide its letter no. 701 dated 15.06.2007 communicated its concurrence for drawing 52.56 MCM of water on annual basis from D/S of Chandil Dam in Swarnrekha river to meet its demand for establishment of 1000 MW Thermal Power Project in the district of Saraikella-Kharsawan. The State Government vide Notification No. 1938 dated 06.09.2007 allowed the petitioner to draw 40 Cusecs of water for the said purpose. It is further submitted that an agreement between the petitioner and the Government of Jharkhand was executed on 29.08.2008 for supply of 40 Cusecs (35.60 MCM=4064 m<sup>3</sup>/hr.) of water from Swarnrekha river in a phased manner. The said agreement remained valid for a period of five years i.e. till 28.08.2013 and was renewable after every five years. After expiry of the agreement dated 29.08.2008, the petitioner vide letters dated 21.09.2013 and 04.10.2013 requested the respondent no. 5 for renewal of the same for a further period of five years from 29.08.2013 to 28.08.2018. The petitioner vide letter dated 10.07.2014 also requested the respondent no. 5 for reduction of quantity of water consumption to 17.60 MCM along with the copy of Model Draft Agreement in a stamp paper, however no action was taken by the respondent authorities, rather the invoices were raised for a higher quantum than the actual drawl of water which compelled the petitioner to file writ petition before this Court being W.P.(C) no. 4693 of 2015 which is still pending and even during the pendency of the above writ petition and expiry of the earlier agreement dated 29.08.2008, the respondents have continued to raise bills for the entire quantity. Hence, the present writ petition.

**4.** Mr. Gaurav Abhishek, A.C. to learned A.G., submits that the present matter requires factual verification at an appropriate level of the government. Hence, if the petitioner prefers a fresh representation before the respondent no.2 - The Secretary, Department of Water Resources, Government of Jharkhand, the same will be considered and an appropriate decision will be taken.

**5.** Having heard learned counsel for the parties and keeping in view the nature of the prayer made in the writ petition, without going into the merit of the case, the petitioner is given liberty to prefer a

fresh representation before the respondent no.2 on the present issue. On receipt of the said representation, the respondent no. 2, after providing due opportunity of hearing to the representative of the petitioner, shall take an appropriate decision within a period of four months from the date of filing of the representation.

**6.** The writ petition is accordingly disposed of with aforesaid liberty and direction.

**(Rajesh Shankar, J.)**

Ritesh/